



General Assembly

January Session, 2011

***Raised Bill No. 1119***

LCO No. 4110

\*04110\_\_\_\_\_GAE\*

Referred to Committee on Government Administration and Elections

Introduced by:  
(GAE)

***AN ACT CONCERNING LICENSING AGREEMENTS OF THE DEPARTMENT OF PUBLIC WORKS, THE PREQUALIFICATION AND REJECTION OF BIDDERS, BID PROTESTS AND A REDEFINITION OF PROCUREMENT.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 4b-38 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2011*):

3 (a) Subject to the provisions of section 4b-30 the commissioner may  
4 lease state-owned land or buildings, or both, and facilities to (1)  
5 municipalities for municipal use, or (2) private individuals or concerns  
6 for private use, when such land, buildings and facilities are otherwise  
7 not used or needed for state use and such action seems desirable to  
8 produce income or is otherwise in the public interest, provided the  
9 Treasurer has determined that such action will not affect the status of  
10 any tax-exempt obligations issued or to be issued by the state of  
11 Connecticut.

12 (b) The commissioner may also lease or license any land or interest  
13 therein for the following purposes, provided the Treasurer has

14 determined that such action will not affect the status of any tax-exempt  
15 obligations issued or to be issued by the state of Connecticut:

16 (1) To enter into leases [of] or licensing agreements concerning  
17 space on major pedestrian access levels and courtyards, [and] rooftops  
18 and other areas of any public building with persons, firms or  
19 organizations engaged in commercial, cultural, educational or  
20 recreational activities. The commissioner shall establish a rental rate or  
21 licensing fee for such leased space equivalent to the prevailing  
22 commercial rate or fee for comparable space devoted to a similar  
23 purpose in the vicinity of the public building. Such leases or licensing  
24 agreements may be negotiated without competitive bids, but shall  
25 contain such terms and conditions and be negotiated pursuant to such  
26 procedures as the commissioner deems necessary to promote  
27 competition and to protect the public interest;

28 (2) To make available, on occasion, or to lease at such rates and on  
29 such other terms and conditions as the commissioner deems to be in  
30 the public interest, auditoriums, meeting rooms, courtyards, rooftops  
31 and lobbies of public buildings to persons, firms or organizations  
32 engaged in cultural, educational or passive recreational activities that  
33 will not disrupt the operation of the building.

34 (c) The commissioner shall deposit all payments received under  
35 leases, licensing agreements or rentals executed pursuant to  
36 subdivisions (1) and (2) of subsection (b) of this section in the General  
37 Fund, and each such payment shall be credited to the appropriation  
38 made from such fund for the operation of such building.

39 (d) The commissioner may furnish utilities, maintenance, repair and  
40 other services to persons, firms or organizations leasing space  
41 pursuant to subdivisions (1) and (2) of subsection (b) of this section.  
42 Such services may be provided during and outside of regular working  
43 hours of state agencies.

44 (e) The commissioner shall, where practicable, give priority in the

45 assignment of space on any major pedestrian access level not leased  
46 under the terms of subdivisions (1) and (2) of subsection (b) of this  
47 section, in such buildings, to state activities requiring regular contact  
48 with members of the public, including colocation requirements for  
49 human services agencies under section 4b-31. To the extent such space  
50 is unavailable, the commissioner shall provide space with maximum  
51 ease of access to building entrances.

52 (f) [Not] Except as provided in subsection (g) of this section, not less  
53 than two weeks before executing a lease [of] or license agreement  
54 concerning land, a building or facility or an interest in land under  
55 subsection (a) or (b) of this section, with a person, firm or corporation  
56 in the private sector, for a term of six months or more, the  
57 commissioner shall notify in writing the chief executive officer of the  
58 municipality in which the land, building, facility or interest is located  
59 concerning the proposed lease or licensing agreement and the manner  
60 in which the lessee or licensee proposes to use the land, building,  
61 facility or interest. Upon executing any such lease or licensing  
62 agreement, the commissioner shall forward a copy to the assessor or  
63 board of assessors of the municipality in which the leased or licensed  
64 property is located.

65 (g) If the licensing agreement entered into in accordance with  
66 subsection (b) of this section grants the licensee only the right to access  
67 state-owned property (1) to perform a study or investigation of such  
68 property or any structures located on such property, or (2) to perform  
69 work on such property or structures, the commissioner shall not be  
70 required to notify the municipality of such agreement as required  
71 under subsection (f) of this section.

72 [(g)] (h) Notwithstanding the provisions of this section, the board of  
73 trustees of a constituent unit of the state system of higher education  
74 may lease land or buildings, or both, and facilities under the control  
75 and supervision of such board when such land, buildings or facilities  
76 are otherwise not used or needed for use by the constituent unit and

77 such action seems desirable to produce income or is otherwise in the  
78 public interest, provided the Treasurer has determined that such action  
79 will not affect the status of any tax-exempt obligations issued or to be  
80 issued by the state of Connecticut. Upon executing any such lease, said  
81 board shall forward a copy to the assessor or board of assessors of the  
82 municipality in which the leased property is located. The proceeds  
83 from any lease or rental agreement pursuant to this subsection shall be  
84 retained by the constituent unit. Any land so leased for private use and  
85 the buildings and appurtenances thereon shall be subject to local  
86 assessment and taxation annually in the name of the lessee, assignee or  
87 sublessee, whichever has immediate right to occupancy of such land or  
88 building, by the town wherein situated as of the assessment day of  
89 such town next following the date of leasing. Such land and the  
90 buildings and appurtenances thereon shall not be included as property  
91 of the constituent unit for the purpose of computing a grant in lieu of  
92 taxes pursuant to section 12-19a provided, if such property is leased to  
93 an organization which, if the property were owned by or held in trust  
94 for such organization would not be liable for taxes with respect to such  
95 property under section 12-81, such organization shall be entitled to  
96 exemption from property taxes as the lessee under such lease, and the  
97 portion of such property exempted and leased to such organization  
98 shall be eligible for a grant in lieu of taxes pursuant to said section 12-  
99 19a.

100 Sec. 2. Subsection (a) of section 4a-100 of the general statutes is  
101 repealed and the following is substituted in lieu thereof (*Effective*  
102 *October 1, 2011*):

103 (a) As used in this section: (1) "Prequalification" means  
104 prequalification issued by the Commissioner of Administrative  
105 Services [to bid on a contract or perform work pursuant to a contract  
106 for the construction, reconstruction, alteration, remodeling, repair or  
107 demolition of any public building or any other public work by the state  
108 or a municipality, except a public highway or bridge project or any  
109 other construction project administered by the Department of

110 Transportation, or to perform work under such a contract as a  
111 substantial subcontractor] under this section; (2) "subcontractor" means  
112 a person who performs work with a value in excess of twenty-five  
113 thousand dollars for a contractor pursuant to a contract for work for  
114 the state or a municipality which is estimated to cost more than five  
115 hundred thousand dollars; (3) "principals and key personnel" includes  
116 officers, directors, shareholders, members, partners and managerial  
117 employees; (4) "aggregate work capacity rating" means the maximum  
118 amount of work an applicant is capable of undertaking for any and all  
119 projects; (5) "single project limit" means the highest estimated cost of a  
120 single project that an applicant is capable of undertaking; (6) "contract"  
121 means an agreement for work for the state or a municipality that is  
122 estimated to cost more than five hundred thousand dollars and is  
123 funded, in whole or in part, by state funds; and (7) "substantial  
124 subcontractor" means a person who performs work with a value in  
125 excess of five hundred thousand dollars for a contractor pursuant to a  
126 contract for work for the state or a municipality which is estimated to  
127 cost more than five hundred thousand dollars.

128 Sec. 3. Subsection (c) of section 4b-91 of the general statutes is  
129 repealed and the following is substituted in lieu thereof (*Effective*  
130 *October 1, 2011*):

131 (c) No person may bid on a contract or perform work pursuant to a  
132 contract that is subject to the provisions of subsection (a) of this section  
133 unless the person is prequalified in accordance with section 4a-100,  
134 except the awarding authority may permit a person who was  
135 prequalified under section 4a-100, as amended by this act, when  
136 awarded the contract or subcontract but whose prequalification  
137 certificate was subsequently revoked, denied or not renewed during  
138 the course of such person's performance of the contract or subcontract  
139 to continue to perform such contract or subcontract upon a written  
140 determination by the awarding authority that such continuance is in  
141 the best interest of the state or municipality and that there is good  
142 cause for such continuance. Such written determination shall be

143 included in the report provided in accordance with section 4b-101a.

144 Sec. 4. Section 4b-94 of the general statutes is repealed and the  
145 following is substituted in lieu thereof (*Effective October 1, 2011*):

146 In inviting bids, the awarding authority shall reserve the right to  
147 reject any or all such general bids, if (1) the awarding authority  
148 determines that the general bidder or bidders involved are not  
149 competent to perform the work as specified, based on objective criteria  
150 established for making such determinations, including past  
151 performance and financial responsibility, (2) the low bid price exceeds  
152 the amount of money available for the project, (3) the awarding  
153 authority determines that the project shall not go forward, or (4) the  
154 awarding authority finds cause to reject such bids. The awarding  
155 authority shall reject the bid of any bidder who, during the past seven  
156 years, has received three or more unsatisfactory written evaluations,  
157 submitted in accordance with subsection (f) of section 4a-100. If the  
158 awarding authority rejects any or all bids pursuant to this section, it  
159 shall notify each affected bidder, in writing, of the reasons for such  
160 rejection. Nothing in this section shall be construed to limit the  
161 discretion of the awarding authority to determine the lowest  
162 responsible and qualified bidder.

163 Sec. 5. Subsection (b) of section 4b-100 of the general statutes is  
164 repealed and the following is substituted in lieu thereof (*Effective*  
165 *October 1, 2011*):

166 (b) The Commissioner of Public Works shall adopt regulations, in  
167 accordance with the provisions of chapter 54, establishing a procedure  
168 for promptly hearing and ruling on claims alleging a violation or  
169 violations of sections 4b-91 to 4b-100, inclusive, as amended by this act.  
170 Such claims may be initiated by the Department of Public Works or  
171 any [party] general bidder whose financial interests may be affected by  
172 the decision on such a claim.

173 Sec. 6. Subdivision (22) of section 4e-1 of the general statutes is

174 repealed and the following is substituted in lieu thereof (*Effective*  
175 *October 1, 2011*):

176 (22) "Procurement" means contracting for, buying, purchasing,  
177 renting, leasing or otherwise acquiring or disposing of, any supplies,  
178 services, including, but not limited to, contracts for purchase of  
179 services and personal service agreements, [interest in real property,] or  
180 construction, and includes all government functions that relate to such  
181 activities, including best value selection and qualification based  
182 selection;

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2011</i>	4b-38
Sec. 2	<i>October 1, 2011</i>	4a-100(a)
Sec. 3	<i>October 1, 2011</i>	4b-91(c)
Sec. 4	<i>October 1, 2011</i>	4b-94
Sec. 5	<i>October 1, 2011</i>	4b-100(b)
Sec. 6	<i>October 1, 2011</i>	4e-1(22)

***Statement of Purpose:***

To give the Department of Public Works the right to enter into licensing agreements concerning state property, to exempt such agreements from the requirement that the department notify the municipality where the property is located, to redefine prequalification, to allow an exception to the requirement that a contractor or subcontractor be prequalified to perform work under a contract or subcontractor, to require the rejection of a bid by a bidder who has received three or more unsatisfactory evaluations in seven years, to clarify that only general bidders have the right to institute a bid protest and to redefine procurement to exclude contracts for interest in real property from the definition.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*